

FEMP Recommendations to GSA Concerning Making PUC DSM Rules & Regulations Accessible to Federal Agencies



FEMP Recommendations to GSA...

☀ FEMP recommendations to GSA...

☀ Background

- ☀ GSA commissioned DOE-FEMP to review and report on state rules and regulations covering demand side management services provided by their utility companies
- ☀ DOE-FEMP to recommend changes to existing GSA guidance



FEMP Recommendations - Continued

- ✿ Review of various state commissions having jurisdiction over utility provided energy efficiency and demand reduction programs indicate all activities of the utilities are subject to their regulation and oversight.

- ✿ Focus of oversight is primarily to assure compliance with their regulations and assure no adverse impact on rates.

- ✿ Little attention given to appropriateness or cost effectiveness to the client of individual projects between the utilities and customers.

- ✿ Assuring value for the purchase rests with the customer.



FEMP Recommendations to GSA (Continued)...

- ✿ 110 companies currently offers some form of DSM program support

- ✿ Impractical for GSA to monitor all individual agreements

- ✿ Important for GSA to provide more specific guidance on responsibility of federal facilities managers and contract officers using these contracts



Recommended Additional Guidance

☼ Recommended actions with proposed language

☼ Modification to current guidance: the following guidance should be promulgated as part of the document “procuring energy management services with the utility Areawide contract”



Agencies and Utility Responsibilities

✿ Authority to use the demand side management programs of utility companies through the GSA areawide contract without competition carries with it the responsibility to assure that the best value is received for the payment made and that the objectives of the authority and related acquisition policy are observed.

✿ There are responsibilities incumbent on the agencies and the utility companies to comply with and maintain that authority.



Agency Responsibilities

☀ The provision of services that include alternatively financed implementation of DSM projects includes ESPCs and UESCs. DOE has prepared a document to help federal acquisition teams evaluate the alternatively-financed energy efficiency contract options. The guide “choosing a financing vehicle for energy efficiency projects for federal sites” can be found at www.eren.doe.gov/femp/utility/choosingfinancingnov00.doc.



Agency Responsibilities – (Cont'd).

✿ When the utility provided demand side management program provides the best value to the government in response to its need for energy management services, the facility must document that decision through the justification and approval process, Federal Acquisition Regulation 6.303, for the use of other than full and open competition.



Agency Responsibilities – (Cont'd).

✿ As much actual implementation work of the project as practical should be secured by the utility using open competition to assure price reasonableness and best value.

✿ If more than one utility company can offer DSM services to a facility, it is incumbent on the facility to evaluate the capabilities of each and choose the one that provides the best value to the government.



Agency Responsibilities – (Cont'd).

☀ A demand side management (DSM) measure is a project that reduces energy usage and/or demand in a facility. To be considered a DSM measure under a GSA areawide contract, the measure must satisfy the following conditions:



"Treasure the Experience"

Federal Utility Partnership Working Group Meeting
Fall 2002

DSM Characteristics

- ✿ The DSM measure must produce measurable energy reductions or measurable amounts of demand reduction;
- ✿ The DSM measure must be directly related to the use of energy or demand reduction;
- ✿ The preponderance of work covered by the DSM measure (measured in dollars) must be for items 1 and 2, above; And,
- ✿ The DSM measure must be an improvement to real property



Utility Company Responsibilities

- ✿ An obvious requirement of the utility company is to provide the highest quality DSM service at a fair and reasonable price.
- ✿ All services included in a demand side management agreement under a GSA areawide contract must be in complete conformance with the rules and regulations of the state regulatory commission whose authority and oversight they are subject to.



Utility Company Responsibilities

✿ Utility companies entering into any DSM services agreements under a GSA areawide contract are required to submit a copy of the agreement to the Energy Center of Expertise (WPE), GSA, Washington, DC 20407 as soon as it is signed.

✿ The utility company is also responsible to secure the maximum amount of actual project work practical through open competition and to comply with all GSA subcontracting requirements.



GSA Oversight

✿The GSA will conduct sampling of contract actions placed against areawide contracts for DSM services. These reviews will focus on the appropriateness of the work ordered, the justification and approval, the extent requirements were competed, price reasonableness, and financing terms.

✿If GSA discovers improper use of the areawide by ordering agencies for DSM services, GSA will advise the agencies on the nature of the improper activities and how to correct the errors. Should GSA determine that a utility has abused the DSM provisions of the areawide contract, GSA may, at its discretion, partially terminate the contract pertaining to DSM services.



GSA Oversight

To address the regulatory authority issue and ensure that the established source procurement issue is adequately addressed, the following statement will be included in all new areawide agreements and in the Scope of Work Section of the Energy Management Services Agreement:

“All services to be provided by the utility company under this agreement are subject to the authority of the state regulatory Commission.”



Questions?

Lindsey Lee

Energy Center of
Expertise

202/401-0174

Lindsey.lee@gsa.gov

